

JAN 20 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OLGA MARISCAL,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-74708

Agency No. A096-349-913

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted January 13, 2009\*\*

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

Olga Mariscal, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' denial of her motion to reopen the underlying

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

denial of her application for cancellation of removal which was based on petitioner's failure to establish the requisite hardship to her qualifying United States citizen relatives.

Petitioner contends that her due process rights were violated when the BIA failed to properly evaluate the evidence and consider all the issues in determining there was no extreme hardship, and when the immigration judge did not allow petitioner to consolidate her case with her husband's case.

Petitioner's claims are without merit. First, petitioner's disagreement with the manner in which the BIA considered the hardship evidence is not a colorable constitutional claim. *See de Lourdes v. Mukasey*, 539 F.3d 1102, 1105 (9th Cir. 2008). Second, there was no due process violation where the IJ did not consolidate petitioner's case with that of her husband. *See Padilla-Padilla v. Gonzales*, 463 F.3d 972, 979 (9th Cir. 2006) ("Congress has provided for individualized hearings before an IJ to determine hardship on family members resulting from removal." )

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**